

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Zettel Analyst: Marion Mann DeJong Bill Number: AB 149
Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 01/29/2001
Attorney: Patrick Kusiak Sponsor: CSHA

SUBJECT: Teacher Retention Credit/Apply to Credentialed Specialists

SUMMARY

This bill would extend the teacher retention tax credit to individuals who provide support services to students (e.g., school psychologists, language specialists, counselors, and school nurses).

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to provide an incentive for the recruitment and retention of credentialed specialists. The sponsor believes that the Legislature intended to include credentialed specialists in the original tax credit legislation.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would become effective immediately upon enactment. The bill specifies that it would apply only to taxable years beginning on or after January 1, 2001.

POSITION

Pending.

Summary of Suggested Amendments

Amendments are needed to clarify the definition of "credentialed specialist." See "Implementation Considerations" below. Department staff is willing to work with the author to resolve this concern.

Amendment 1 is provided to change an incorrect reference. See "Technical Considerations" below.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or engage in certain activities that they may not otherwise undertake.

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| <input checked="" type="checkbox"/> PENDING | | |

Existing federal law does not have a credit comparable to the teacher retention tax credit.

Current state law allows a teacher retention tax credit for credentialed teachers based upon the years of service as a credentialed teacher. The teacher must hold a preliminary or professional teaching credential and be a classroom teacher in any California public or private kindergarten through 12th grade school (including those on Indian reservations or military installations located in California). The credit amount varies as follows:

| <u>Years of Service</u> | <u>Credit</u> |
|------------------------------------|---------------|
| At least 4 but less than 6 years | \$250 |
| At least 6 but less than 11 years | \$500 |
| At least 11 but less than 20 years | \$1,000 |
| 20 or more years | \$1,500 |

The credit cannot exceed 50% of the amount of tax that would be imposed on a teacher's salary for teaching, excluding pensions or other deferred compensation. To determine tax imposed on a teacher's salary, the total tax (as defined) is multiplied by the ratio, not to exceed 1.00, of a credentialed teacher's wages and salary (as defined) divided by their total adjusted gross income from all sources.

The credit cannot reduce regular tax below tentative minimum tax. Excess credit amounts cannot be carried forward.

THIS BILL

This bill would extend the teacher retention tax credit to credentialed specialists (e.g., school psychologists, language specialists, counselors, and school nurses). A "credentialed specialist" must hold a preliminary or professional clear teacher or service credential and provide direct services to children.

IMPLEMENTATION CONSIDERATIONS

The term "credentialed specialist" and the phrase "provides direct services to children" are unclear and can be subject to varying interpretations. According to the sponsor, the intent of the bill is to provide a credit for speech therapists, counselors, and nurses but not administrators. However, the bill defines a credentialed specialist as someone with a "service credential." There are five basic types of service credentials (Education Code Section 44266 to 44270): specialization in pupil personnel services, specialization in health, specialization in clinical or rehabilitative services, services as a library media teacher or librarian, and specialization in administrative services. Every holder of a "service credential," including a school principal that provides direct services to children could claim the credit under the language of this bill. Unclear terms and phrases can lead to disputes between taxpayers and the department.

Further, department staff does not possess the expertise to determine what credentials are appropriate for the credit.

Current law limits the amount of the credit to 50% of the tax on the teacher's wages and salary from teaching. In most cases, wages and salary are subject to federal and state income tax withholding and reported on Treasury Form W2. If credentialed specialists do not receive W2s reflecting wages and salary for services as a credentialed specialist, determining the availability and amount of the credit for a credentialed specialist may be problematic because it is difficult to determine the amount of wages that are not reported on a W2.

TECHNICAL CONSIDERATIONS

On page 2, line 22, the reference to subdivision (d) is incorrect. The correct reference is subdivision (c). Amendment 1 would make this change.

The operative date language being added in subdivision (d) can cause confusion in the future if the credit is amended again. Department staff recommends moving this language to uncodified law. Amendments 2 and 3 would make this change.

LEGISLATIVE HISTORY

AB 2879, Jackson (Stats. 2000, Ch. 75), enacted the teacher retention tax credit. *AB 1080, Villaraigosa (Stats. 2000, Ch. 603)*, simplified the method of determining tax imposed on a teacher's salary for purposes of the credit limitation contained in the teacher retention tax credit.

OTHER STATES' INFORMATION

Review of Illinois, Massachusetts, Michigan, and New York laws found no comparable tax credits or deductions. These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Tax Revenue Estimate

This bill is estimated to impact Personal Income Tax revenue as shown in the following table.

| Fiscal Year Cash Flow Taxable Years Beginning After 12/31/00 Assumed Enactment after 6/20/01 \$ Millions | | | |
|---|---------|---------|---------|
| 2001-02 | 2002-03 | 2003-04 | 2004-05 |
| -\$39 | -\$34 | -\$37 | -\$39 |

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion:

The revenue impact for this bill will be determined by the number of credentialed specialists, the corresponding length of service, and the amount of credits that can be applied against available tax liabilities. Administrators have been included in this revenue estimate as they fit the definition provided of “credentialed specialist”. Information from the California Commission on Teacher Credentialing indicates that the majority of administrators hold service credentials.

It is projected that for the first tax year, 2001, approximately 47,000 credentialed specialists qualify for the credit. Information obtained from the Department of Education and the Department of Finance on tenure classes and salaries was used in the analysis. The rate at which credits would be applied against tax was derived from state tax return data for employees with comparable incomes.

SUPPORT/OPPOSITION

Support: California Speech-Language-Hearing Association
Oakland Education Association
California Association of School Psychologists

Opposition: Unknown

ARGUMENTS/POLICY CONCERNS

Proponents argue that support services such as those provided by school psychologists, speech-language specialists, counselors, and school nurses are critical for academic success. Since there are shortages in support service professions as well as the teaching profession, teacher recruitment, and retention programs should include school specialists.

In its current form, this bill would provide the credit to administrators with “service credentials.” This group was specifically excluded from the teacher retention credit when the Legislature considered the original legislation.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 149
As Introduced January 29, 2001

AMENDMENT 1

On page 2, line 22, strikeout "(d)" and insert:

(c)

AMENDMENT 2

On page 3, strikeout lines 36 through 38, inclusive.

AMENDMENT 3

On page 4, modify line 1 as follows:

SEC.2. The amendments to Section 17052.2 of the Revenue and Taxation Code made by this act shall apply to taxable years beginning on or after January 1, 2001.

SEC.3. This act provides for a tax levy within the meaning of